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## **2.0 Regulations Governing Individual Onsite Wastewater Disposal**

### **Subdivision Review, and Onsite Systems Serving Multi-Family Dwellings, Manufactured Home Developments and RV Campgrounds**

Mississippi State Department of Health  
Post Office Box 1700  
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Form No. 309 **Subdivisions**

## **MISSISSIPPI STATE DEPARTMENT OF HEALTH**

### **2.28 REGULATIONS GOVERNING SUBDIVISION REVIEW AND ONSITE SYSTEMS SERVING MULTI-FAMILY DWELLINGS, MANUFACTURED HOME DEVELOPMENTS AND RV CAMPGROUNDS**

#### **2.29 PURPOSE**

The purpose of this regulation is to establish procedures and protocols for the review and subsequent approval, referral or disapproval of proposed subdivisions, multi-family dwellings or manufactured home developments and recreational vehicle campgrounds planning to utilize individual onsite wastewater disposal systems.

#### **2.30 AUTHORITY**

The State Board of Health is authorized to promulgate these rules under and by virtue of Section 41-3-15 (4) (a) (b) (f) and Section 41-67-1 through 41-67-29 Mississippi Code of 1972, Annotated.

#### **2.31 DEFINITIONS**

- (1) Available space - sufficient area in which to properly install the required individual onsite wastewater disposal system including the working area necessary to prevent excessive and unnecessary equipment traffic over the system and space allowance for future extensions.
- (2) Bedroom - a room designed primarily for sleeping or a room which is expected to routinely provide sleeping accommodations for occupants.
- (3) Board - the Mississippi State Board of Health.
- (4) Covenant Running with the Land - a covenant which goes with the land and which cannot be separated from the land and transferred without it. This covenant is said to run with the land when not only the original parties or their representatives, but each successive owner of the land, will be entitled to its benefits, or be liable to its obligation.
- (5) Department - the Mississippi State Department of Health.
- (6) Developer - a person who creates a subdivision development, multi-family dwelling, manufactured home development, commercial establishment or recreational vehicle park as herein defined.

- (7) Dwelling - a house, manufactured home, shelter, structure, or building, or portion thereof, which is not readily mobile and is occupied in whole or in part as the home, residence, or sleeping place of one or more people.
- (8) Establishment - a multi-family housing, apartment, condominium or townhouse complex, a manufactured home park or recreational vehicle park, a non-residential commercial or institutional development or places of business or assembly. An establishment includes all buildings or structures, and the land appertaining thereto and shall have a legal entity which is responsible for ownership and maintenance/operation of the sewage treatment and disposal facilities.
- (9) Feasibility study - a report composed by a professional engineer comparing the most cost effective central sewage collection system to the appropriate individual onsite wastewater disposal system as regulated by the Mississippi Department of Health.
- (10) Flooding - a covering of the soil surface by water from any source, such as streams overflowing their banks, runoff from adjacent or surrounding slopes, elevation of the ground water table exceeding that of the soil surface, or combinations of these. Terms also associated with flooding and used elsewhere in this Chapter are:
  - (a) Frequent - flooding is likely to occur often under usual weather conditions (more than a 50 percent chance of flooding in a year, or more than 50 times in 100 years).
- (11) Impaired Water Bodies - water bodies identified as impaired due to pathogens, organic enrichment/low DO, biological impairment and fecal coliform in Sections A and C of the most recent approved TMDL 303d listing as published by the Mississippi Department of Environmental Quality.
- (12) Individual Onsite Wastewater Disposal System - a sewage treatment and effluent disposal system that does not discharge into waters of the state, that serves only one (1) legal tract, that accepts only human sanitary waste and other similar waste streams maintained on the property of the generator, and that is designed and installed in accordance with law and regulations of the board.
- (13) Manufactured Home Development - shall mean any parcel or tract of land under the control of a person wherein sites are offered for the use of the public for the establishment of living sites for two or more manufactured homes.
- (14) Multiple Family Dwelling - a dwelling where occupying individuals are not related to within the third degree of kinship based on MS Code.

- (15) Person - any individual, trust, firm, joint-stock company, public or private corporation (including a government corporation), partnership, association, state, or any agency or institution thereof, municipality, commission, political subdivision of a state or any interstate body, and includes any officer or governing or managing body of any municipality, political subdivision, or the United States or any officer or employee thereof.
- (16) Plat - a property depiction (map/drawing), prepared by a professional land surveyor/professional engineer in accordance with the rules and regulations governing the profession, drawn to a scale adequate to provide information in a clear and legible manner, be suitable for recording and showing the location and boundaries of the parcel and of all lots if subdivided and including details as specified by these regulations. Any detail specified by these regulations for a surveyed plat must be depicted exactly per the survey and shall not be hand drawn in as may be done on a plot plan.
- (17) Professional Engineer - a person that has met the qualifications as required under Section 73-13-23(1), Ms Code of 1972, Annotated and who has been issued a certificate of registration as a professional engineer.
- (18) Recreational Vehicle - shall mean a vehicular-type unit designed as living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or towed by another vehicle. The basic entities include, but are not limited to a travel trailer, camping trailer, truck camper, van, and motor home.
- (19) Recreational Vehicle Campground - shall mean any parcel or tract of land under the control of any person, organization, or governmental entity wherein sites are offered for the use of the public or members of an organization for the establishment of living sites for two or more recreational vehicles.
- (20) Wastewater - means human body waste and wastewater, including bath and toilet waste, residential laundry waste, residential kitchen waste, and other similar waste from appurtenances at a residence or establishment.
  - 1. Domestic sewage waste ranges:
    - a. Carbonaceous Biochemical Oxygen Demand (CBOD5), maximum 300 mg/l
    - b. Total Suspended Solids (TSS), maximum 200 mg/l
    - c. pH, 6 - 8; or within 1 pH unit of the water supply pH
    - d. Nitrogen (Total Kjeldahl Nitrogen, TKN) maximum 100 mg/l
- (21) Sensitive Waters - private waters used for recreation (swimming, skiing, fishing), or other situations where people are likely to come into contact with the water and state waters classified as shellfish harvesting, public water supply, ephemeral or recreational in the Mississippi Commission on Environmental Quality Regulation WPC-2, Water Quality Criteria for Intrastate, Interstate and Coastal Waters.

- (22) Site Plan - see Plat
- (23) Subdivision - any land that is divided into ten or more lots, tracts, sites or parcels for the purpose of residential development.
- (24) Water Storage Easement - an entitlement in perpetuity allowing the holder of the easement to impound water in a reservoir, and inundate land up to a specified contour elevation above mean sea level.

## **2.32 GENERAL PROVISIONS**

It is the policy of the Board that connection to a public sewer system is recommended when a proposed development is accessible to such existing sewer system. It is the policy of the Board that connection to a public water system is recommended when a proposed development is accessible to such public water system.

### **1. Subdivision Approval Required**

No person shall commence any act which would constitute building development on any subdivision utilizing onsite sewage disposal systems prior to receiving, from the department, the required approval. Nothing in this Chapter shall be construed to prevent the making of soil test borings or any other preliminary testing and inspection.

### **2. Subdivision Review Required**

- (a) Any person proposing to develop a subdivision, or an addition to a subdivision utilizing onsite sewage disposal systems shall submit, to the department, information for review outlined on the Subdivision Review Checklist Form, provided by the department.
- (b) For purposes of these regulations, the subdividing of property into ten (10) or more lots, tracts, sites or parcels for the purpose of residential development shall constitute development of a subdivision.
- (c) Once all of the required information is submitted, the development will be evaluated following the flow chart found in the 2.35 Procedures, **Chart I** of this regulation.
- (d) The following activities shall not be considered as creating a subdivision:
  - i. Dividing a parcel of land for the purpose of a bona fide gift.
  - ii. Dividing a parcel of land under the provisions of a will or under the laws of intestate succession.
  - iii. The mere sale, lease or rental of land, provided that the sale, lease, or rental does not take place in conjunction with building development.

## **2.33 RESPONSIBILITIES**

**1. The Mississippi State Department of Health shall be responsible for the following:**

Evaluating the site for the proposed subdivision development, commercial establishment, multi-family dwelling, manufactured home development or recreational vehicle park for the placement and use of individual onsite wastewater disposal systems. The evaluation will be based on soil/site conditions and the amount of available area to place these systems. The property must be evaluated by staff from the Division of Onsite Wastewater.

**2. If the property is to be subdivided, have a multi-family residence, a commercial establishment, a manufactured home development or recreational vehicle campground, the property owner shall be responsible for the following:**

- (a) Furnishing a legal description and site plan of the entire area to be developed. The site plan shall show lot lines, lot sizes (dimensions and total area), and existing ground contours on **two foot intervals**. The site plan shall show all lakes, ponds, streams, and any known or possible wetland areas. Names of adjacent property owners and their property lines abutting the proposed development shall be shown. If the developer has title to or has a vested interest in property adjoining his/her proposed development the developer must indicate the property on the plat and provide a letter of intention concerning this property. In addition to the above requirements developers of Multi-family residences, Manufactured Home Developments or Recreational Vehicle Campgrounds must also submit information regarding the placement of residences, manufactured homes or recreational vehicles on the site plan. Developers of recreational vehicle campgrounds must also indicate the location and size of RV dump stations and bath houses.
- (b) Submitting the feasibility study to the Mississippi State Department of Health, Division of Onsite Wastewater, whenever 35 or more lots are involved. This study must be completed before any lot is approved. When residential subdivisions are proposed which are composed of fewer than 35 lots, but more than 10 lots, and no system of sanitary sewer is available to which collection sewers may be feasibly connected, the State Health Officer may waive the requirement for a feasibility study. Such waiver of the feasibility study will not be granted if the proposed development meets any one of the following criteria:
  - (i) Is within a wastewater utility district where that utility has certified it will provide service

- (ii) Is within a regional wastewater authority that has certified it will provide service
  - (iii) Is within one mile of a city with sewer availability that has certified it will provide sewer service
  - (iv) MDH analysis reflects that soil and site conditions may not be conducive for Individual Onsite Wastewater Disposal Systems.
- (c) No feasibility study or community sewage system shall be required for subdivisions designed, laid out, platted or partially constructed before July 1, 1988 or subdivisions platted and recorded between July 1, 1995 and June 30, 1996.

#### **2.34 Subdivisions Requiring a Feasibility Study**

1. The developer shall employ a professional engineer to prepare the feasibility study to determine the proper and adequate method of sewage disposal for the proposed subdivision.
2. The Feasibility Study and all accompanying materials shall be prepared and submitted to the department for review. The complete submittal must contain all original signatures and seals and include an electronic copy of the plat. The Feasibility Study should be submitted well in advance of the anticipated construction date, since a lack of necessary information could cause additional delays.

If all required information is not provided with the submittal, the applicant shall be notified in writing and review withheld until the complete information is received.

3. The feasibility study shall be accompanied by the following attachments:
  - (a) A vicinity map
  - (b) A subdivision plat showing:
    - i. The name of the subdivision.
    - ii. A layout drawn to scale of proposed lots, streets and easements which shows the location of existing and proposed wells. The scale of the plats shall be adequate to provide information in a clear and legible manner.
    - iii. Actual lot sizes and lot sizes excluding easements, rights of way and



other similar areas. Easements and rights of way must be identified as to their purpose, i.e., electrical, water, etc. .

- iv. Phases, sectors, block and lot numbers, and street names or identification.
  - v. A minimum of one corner of the proposed development identified in State Plain Coordinates or longitude and latitude.
  - vi. Topography of the area, with contour on **two foot intervals** to show existing and proposed drainage, existing grades, and finished grades where changes are anticipated.
  - vii. An adequate plan showing frequently flooded areas, existing and proposed drainage, and easements for surface or subsurface drainage. Normal and flood elevations of lakes shall be clearly and accurately shown.
  - viii. All soil borings performed in the subdivision, located accurately and properly identified.
  - ix. When a subdivision includes land within a water storage easement or flood easement, a letter shall be required from the easement holder, addressing the proposed development's compliance with any rules or guidelines of the easement holder.
4. After the feasibility study has been submitted and reviewed, a final report shall be completed by the Division of Onsite Wastewater indicating the determination of feasibility of onsite systems or central collection and treatment. The final report shall be returned to the applicant or his/her agent with written notice of actions taken.

## **2.35 Subdivisions In Wetlands or Frequently Flooded Areas**

- 1. All subdivisions to be developed utilizing onsite sewage disposal systems wholly or partially within a wetland or a frequently flooded area as defined in this regulation shall, in addition to the other requirements of this regulation, comply with the following requirements:
  - (a) No approval shall be given to any such subdivision which lies wholly within a wetland or a frequently flooded area.
  - (b) Where a proposed subdivision is located partially within a wetland or a frequently

flooded area, that portion of the subdivision not within the wetland or frequently flooded area may be considered for approval.

## **2.36 Procedures and Protocol**

1. Once all required information is submitted, the Division of Onsite Wastewater shall complete the review of the development or request additional information within thirty calendar days.
2. The review of the proposed project for determination of the requirement for a feasibility study will be made utilizing the steps outlined in a flow chart .
3. Subdivisions will be considered feasible for central collection, if the cost of a central system does not exceed 150 percent of the aggregate cost of an individual onsite wastewater disposal system on each lot.

## **2.37 Onsite Systems Serving Commercial Establishments, Multi-Family Residences, Manufactured Home Developments and Recreational Vehicle Campgrounds**

1. A property owner planning to build, construct or otherwise place more than two families, manufactured homes or recreational vehicles or a single commercial establishment on a single tract of land and is planning to utilize an individual onsite wastewater disposal system, designed to treat and dispose of residential strength wastewater, must submit information outlined on the Multi-Family Residence and Manufactured Home Development /Recreational Vehicle Campground Checklist Form provided by the department.
2. Multi-Family residences must count each separate unit as one "lot" in the development.
3. The planned sewage flow for each lot in a manufactured home development shall be 450 gallons per day.
4. More than one commercial establishment, recreational vehicle or multifamily dwelling may be connected to a single onsite sewage disposal system, provided that one person is accountable for the onsite sewage disposal system in accordance with these regulations for all dwellings involved.
5. Commercial establishments, multifamily dwellings and recreational vehicle campgrounds where the connection of more than one dwelling to an onsite sewage disposal system is proposed, the application to install an onsite sewage disposal system shall include the information in 2.33 (2) and the following

additional information:

- (a) A complete layout of streets, parking areas, onsite sewage disposal systems, sewer lines, water lines, easements, underground utilities and dwelling locations;
  - (b) Total acreage or square footage of the proposed property.
  - (c) A notarized statement signed by the property owner, stating that the property will not be subdivided or lots sold, and that the onsite sewage disposal systems will be under the responsibility of one person, and giving the name of that person, with address and telephone number.
  - (d) For multifamily dwellings, each building plan shall show the number of dwelling units and number of bedrooms.
- 6. Projects with projected wastewater flows in excess of fifteen hundred (1,500) gallons per day and flows of high strength waste (not typical of domestic sewage waste) must be designed and submitted by an engineer.
- 7. The property involved shall not be developed in excess of its capacity to properly treat and dispose of sewage flows generated by the project.
- 8. The property owner of commercial establishments, recreational vehicle campgrounds or multifamily dwellings where multiple units are connected to a single onsite system shall establish covenants running with the land which shall include, at a minimum, the following:
  - (a) The responsible person originally owning or developing the property shall own and be responsible for the operation and maintenance of the common sewage disposal system(s). The responsible party shall not disestablish itself without the concurrence of the department, in which case its responsibilities shall pass to its successors or assigns.
  - (b) The covenants shall be binding on present and future owners until such time as the system(s) is/are no longer required by the Regulation, the same being the case when each space (lot) is connected to a public or private sanitary sewer system.
- 9. Once the developer has assembled the required documentation it must be submitted to the department for review. Upon completion of the review the developer or his/her agent will receive authorization to proceed with the project.

## **2.38 Hearings and Appeals**

1. Any person aggrieved by the department's determination of feasibility disapproval or requirements for an on-site wastewater disposal system as provided by the department may request a review of the determination. The request for review must be submitted in writing to the Director of the Office of Environmental Health. The request for review shall identify the matter contested and state the name of the development, developer's name, mailing address and home and daytime phone numbers. Within ten (10) business days of the receipt of the request for review, the department shall issue in writing a ruling and determination to the person and if any corrections are necessary to any correspondence or form previously issued by the department, then new correspondence or forms shall be submitted to the person.
2. Any person aggrieved by the ruling issued by the Director of the Office of Environmental Health may apply for a hearing. Any hearing shall be conducted by a hearing officer designated by the department. At the hearing, the hearing officer and any person affected by the proposal being reviewed may conduct reasonable questioning of persons who make relevant factual allegations concerning the proposal. The hearing officer shall require that all persons be sworn before they may offer any testimony at the hearing, and the hearing officer is authorized to administer oaths. Any person so choosing may be represented by counsel at the hearing. A record of the hearing shall be made, which shall consist of a transcript of all testimony received, all documents and other material introduced by any interested person, the staff report and recommendation, and any other material as the hearing officer considers relevant, including his own recommendation. He shall make a recommendation within a reasonable period of time after the hearing is closed and after he has had an opportunity to review, study and analyze the evidence presented during the hearing. The completed record shall be certified to the State Health Officer, who shall consider only the record in making his decision, and shall not consider any evidence or material which is not included. All final decisions regarding the disapproval or requirements for an on-site wastewater disposal system shall be made by the State Health Officer. The State Health Officer shall make his written findings and issue his order after reviewing the record. The findings and decision of the State Health Officer shall not be deferred to any later date, and any deferral shall result in an automatic order of disapproval.

## **2.39 Fees**

A fee shall be levied for the review of submitted proposals as follows:

1. The fee for review of subdivisions will be a minimum of two hundred fifty dollars (\$250.00) dollars and five dollars (\$5.00) for each lot indicated in the plat.
2. The fee for review of engineered projects in excess of 1500 gallons per day or system designs to treat high strength wastes (not typical of domestic wastewater) will be two hundred fifty dollars (\$250.00) dollars.
3. The fee for review of projects less than 1500 gallons per day, RV parks, manufactured housing parks, and commercial establishments will be a minimum of fifty dollars (\$50.00) and two dollars (\$2.00) for each lot indicated in the proposal.